Tunney Seeks Flanigan ITT Testimony

By Morton Mintz
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Sen. John V. Tunney (D-Calif.) said yesterday he will seek to have White House aide Peter M. Flanigan summoned by the Senate Judiciary Committee to testify about his role in the settlement of an International Telephone and Telegraph Corp. merger case.

If committee chairman James O. Eastland (D.-Miss.) should agree to request Flanigan's appearance and he should refuse to come, as was expected, the result would be another in a series of confrontations, over many years, between Capitol Hill and the White House on the immunity of executive branch personnel.

Flanigan served as "a conduit" for a request for a financial analysis of the ITT case by investment consultant Richard J. Ramsden, Richard W. McLaren, the Justice Department's antitrust chief until a month ago, acknowledged to the committee yesterday. The Ramsden analysis figured in the department's agreement to the settlement.

Later in the day, Tunney disclosed to a reporter his intention to request Sen. Eastland to call Flanigan. Flanigan's name has come up in connection with other merger cases as well.

Flanigan told a reporter Monday that he would decline to testify because of "executive privilege."

Information Withheld

Numerous Presidents have used these words—or an even vaguer substitute, such as "policy"—to refuse information sought by Congress.

Generally, Presidents Washington, Jefferson and Theodore Roosevelt did not delegate to subordinates the power to invoke "executive privilege." President Eisenhower, in 1954, delegated the power, however, to executive branch employees far down the administrative line.

In contrast, President Kennedy set a policy under which the privilege could be invoked only by himself. Presidents Johnson and Nixon did the same.

Flanigan's plan to invoke "executive privilege" was reported by The New York Times, but White House press aides who were asked during the day to verify its accuracy had not done so by 7 o'clock last night.

Neither had the press aides replied to a reporter's questions about an assertion by Mr. Nixon that the "privilege" could be invoked only with his personal approval.

The President, replying on April 7, 1969, to an inquiry from Rep. John E. Moss (D-Calif.), then chairman of the House Foreign Operations and Government Information subcommittee, said that "he scope of executive privilege must be very narrowly construed.

"Under this administration, executive privilege will not be asserted without specific presidential approval," Mr. Nixon said.

"... this administration is dedicated to insuring a free flow of information to the Congress and the news media — and, thus, to the citizens," the letter continued.

"I want open government to be a reality in every way possible ... I am committed to ensuring that both the letter and the spirit of the Public Records Law will be implemented throughout the executive branch of the government."

White House press secretary Ronald L. Ziegler, at an afternoon briefing, was asked if a check had been made to see if Flanigan, who could not be reached, had conducted himself properly in the ITT case.

Ziegler said he would have no comment on a matter before the Senate Judiciary Committee.

"But regarding Mr. Flanigan, there is no concern that he has conducted himself improperly," Ziegler said.

Would White House aides be permitted to testify? Ziegler said his "personal opinion" was that "under the executive privilege process members of the White House staff would not testify."